

§ 938.11

30 CFR Ch. VII (7–1–02 Edition)

to the provisions of the Pennsylvania permanent regulatory program. Copies of the approved program, together with copies of the letter of the Department of Environmental Resources agreeing to the conditions in 30 CFR 938.11 are available at the following locations:

(a) Pennsylvania Department of Environmental Resources, Market Street State Office Building, 400 Market Street, P.O. Box 2063, Harrisburg, Pennsylvania 17101-2063; Telephone: (717) 787-4686.

(b) Office of Surface Mining Reclamation and Enforcement, Third Floor, suite 3C, Harrisburg Transportation Center, 4th and Market Streets, Harrisburg, Pennsylvania 17101; Telephone: (717) 782-4036.

[59 FR 17930, Apr. 15, 1994]

§ 938.11 Conditions of State regulatory program approval.

The approval of the Pennsylvania state program is subject to the Commonwealth revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statutes, the regulations, the program narrative, or the Attorney General's opinion. This section indicates, for the general guidance of the Commonwealth, the component of the program to which the Secretary recommends the change be made.

(a)–(i) [Reserved]

[47 FR 33079, July 30, 1982, as amended at 48 FR 13417, Mar. 31, 1983; 48 FR 45391, Oct. 5, 1983; 49 FR 20492, May 15, 1984; 49 FR 27319, July 3, 1984; 51 FR 18321, May 19, 1986; 66 FR 57665, Nov. 16, 2001]

§ 938.12 State statutory, regulatory, and proposed program amendment provisions not approved.

(a) We are not approving the following provisions or portions of provisions of the proposed program amendment that Pennsylvania submitted on July 29, 1998:

(1) Section 5.1(b) (52 P.S. 1406.5a(b)) of the BMSLCA.

(2) At section 5.2(b)(2) (52 P.S. 1406.5b(b)(2)) of the BMSLCA, the phrase, “* * * where the contamination, diminution or interruption does not abate within three years of the

date on which the supply was adversely affected.”

(3) At section 5.2(d) (52 P.S. 1406.5b(d)) of the BMSLCA the phrase, “Wherever a mine operator, upon request, has been denied access to conduct a premining survey and the mine operator thereafter served notice upon the landowner by certified mail or personal service, which notice identified the rights established by sections 5.1 and 5.3 and this section, was denied access and the landowner failed to provide or authorize access within ten days after receipt thereof, then such affirmative proof shall include premining baseline data, provided by the landowner or the department, relative to the affected water supply.”

(4) Section 5.2(e)(2) (52 P.S. 1406.5b(e)(2)) of the BMSLCA.

(5) Section 5.2(g) (52 P.S. 1406.5b(g)) of the BMSLCA.

(6) Section 5.2(h) (52 P.S. 1406.5b(h)) of the BMSLCA.

(7) At section 5.2(i) (52 P.S. 1406.5b(i)) of the BMSLCA the phrase, “and of reasonable cost.”

(8) The portion of section 5.3(a) (52 P.S. 1406.5c(a)) of the BMSLCA that allows agreements for water replacement that do not fully comply with federal requirements for restoration or replacement of water supplies. Additionally, the portion of section 5.3(a) (52 P.S. 1406.5c(b)) that allows compensation in lieu of restoration or replacement of affected water supplies.

(9) Section 5.3(b) (52 P.S. 1406.5c(b)) of the BMSLCA is not approved to the extent that section 5.3(a) (52 P.S. 1406.5c(a)) is not approved.

(10) Section 5.3(c) (52 P.S. 1406.5c(c)) of the BMSLCA is not approved to the extent any state law negates or provides less protection than EPAct.

(11) At section 5.4(a)(3) (52 P.S. 1406.5d(a)(3)) the phrase, “in place on the effective date of this section or on the date of first publication of the application for a Mine Activity Permit or a five-year renewal thereof for the operations in question and within the boundary of the entire mine as depicted in said application.”

(12) Section 5.4(c) (52 P.S. 1406.5d(c)) of the BMSLCA.

(13) Section 5.5(b) (52 P.S. 1406.5e(b)) of the BMSLCA.